

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<p>ALFRED DEL RIO A/K/A ALFREDO DEL RIO and OLIVIA DEL RIO,</p> <p>Plaintiff,</p> <p>v.</p> <p>McCABE, WEISBERG &amp; CONWAY, LLC; NEWREZ LLC D/B/A SHELLPOINT MORTGAGE SERVICING; and THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWALT INC., ALTERNATIVE LOAN TRUST 2007- 11T1, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-11T1,</p> <p>Defendants.</p>	<p>Case No. 1:19-CV-10312-VSB</p>
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**DECLARATION OF JORDAN M. SMITH IN SUPPORT OF SHELLPOINT'S AND  
BONYM'S<sup>1</sup> MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT AND TO  
STRIKE CLASS ALLEGATIONS**

I, Jordan M. Smith, an attorney duly admitted to practice in the State of New York and in the Southern District of New York, hereby declares, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am a partner of the law firm Akerman LLP, attorneys for Defendants Shellpoint and BoNYM in the above-captioned action. The facts stated in this declaration are known to me personally or are based on information provided in the annexed exhibits.

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<sup>1</sup> "Shellpoint" refers to defendant NewRez LLC D/B/A Shellpoint Mortgage Servicing, and "BoNYM" refers to defendant The Bank of New York Mellon F/K/A The Bank of New York, as Trustee for the Certificateholders of CWALT Inc., Alternative Loan Trust 2007-11T1, Mortgage Pass-Through Certificates, Series 2007-11T1.

2. I submit this declaration in support of Shellpoint's and BoNYM's motion to dismiss and to strike class allegations. In particular, I make this declaration to present to the Court certain documents of which the Court may take judicial notice pursuant to Fed. R. Evid. 201.

3. A true and correct copy of the foreclosure complaint filed by BoNYM in the Supreme Court of the State of New York, County of Bronx, on August 24, 2009, under Index No. 381848-2009, is annexed hereto as **EXHIBIT A**.

4. A true and correct copy of the amended foreclosure complaint filed by BoNYM in the Supreme Court of the State of New York, County of Bronx, on October 23, 2009, under Index No. 381848-2009, is annexed hereto as **EXHIBIT B**.

5. A true and correct copy of the voluntary petition for relief under chapter 7 of the United States Bankruptcy Code filed by Alfred Del Rio in the United States Bankruptcy Court, Southern District of New York, on March 7, 2011, under Case No. 11-bk-10979, is annexed hereto as **EXHIBIT C**.

6. A true and correct copy of the discharge order entered by the Court in the United States Bankruptcy Court, Southern District of New York, on June 14, 2011, under Case No. 11-bk-10979, is annexed hereto as **EXHIBIT D**.

7. A true and correct copy of the stipulated discontinuance filed by BoNYM in the Supreme Court of the State of New York, County of Bronx, on August 25, 2015, under Index No. 381848-2009, is annexed hereto as **EXHIBIT E**.

8. A true and correct copy of the foreclosure complaint filed by BoNYM in the Supreme Court of the State of New York, County of Bronx, on August 29, 2019, under Index No. 36469-2019E, is annexed hereto as **EXHIBIT F**.

9. A true and correct copy of the Memorandum of Law Opposing Defendants' Motion for Summary Judgment and Default Judgment and Supporting Plaintiff's Motion to Compel Acceptance of its Reply to Counterclaims filed by BoNYM in the Supreme Court of the State of New York, County of Bronx, on January 28, 2020, under Index No. 36469-2019E, is annexed hereto as **EXHIBIT G**.

I, JORDAN M. SMITH, hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: February 18, 2020  
New York, New York

/s/ Jordan M. Smith, Esq.  
Jordan M. Smith